



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JJD
F.#2010R00014

*United States Attorney's Office
610 Federal Plaza
Central Islip, New York 11722-4454*

February 21, 2012

The Honorable Joseph F. Bianco
United States District Judge
United States District Court
Eastern District of New York
920 Federal Plaza
Central Islip, New York 11722

Re: United States v. Acosta-Yanes et al.
Criminal Docket No. 10-074 (S-4) (JFB)

Dear Judge Bianco:

The government writes to update the Court and the defendants regarding the status of the death penalty decisions regarding the remaining Group III defendants in the above-referenced matter.

With respect to the defendants Jose Gustavo Orellana-Torres, Mario Alphonso Herrera-Umanzor, Heriberto Martinez, Vidal Espinal and Jeremias Exequiel Amaya, the government submitted its memorandum, attaching copies of the defendants' respective mitigation submissions, to the Capital Case Unit of the Department of Justice ("CCU") on October 26, 2011. Thereafter, CCU scheduled a conference with counsel for one of those defendants for early January 2012, which was subsequently adjourned, at the request of defense counsel, until January 30, 2012. Following that conference and additional communication with this Office regarding issues discussed during the conference, CCU completed its memorandum and recommendations with respect to those five defendants, which will be forwarded to the Attorney General for review later this week.

During a January 4, 2012 status conference, Your Honor had directed the government to notify the Court and the five aforementioned defendants whether it intends to seek the death penalty prior to the next status conference, which is scheduled for March 7, 2012, or to submit a letter to the Court setting forth why the decisions had not been made. The government informed CCU of the Court's directive in January 2012. However, CCU has informed

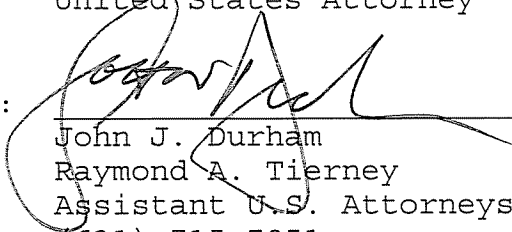
the government that the Attorney General will not have reached decisions with respect to the five defendants before March 7, 2012. Accordingly, the government respectfully requests that its time to notify the Court and defense counsel whether it will seek the death penalty against Orellana-Torres, Herrera-Umanzor, Martinez, Espinal and Amaya be extended until March 30, 2012.

With respect to the five remaining Group III defendants, Yonis Acosta-Yanes, David Valle, Louis Ruiz, Franklin Villatoro and Yobany Calderon, the government has drafted a memorandum summarizing the defendants' conduct and evaluating the aggravating and mitigating factors with respect to each defendant. The government received the final defense mitigation submission yesterday, February 20, 2012, and is in the process of updating our memorandum accordingly. Once that memorandum is complete, it will be submitted to the United States Attorney for review and approval, and then forwarded to CCU.

Respectfully submitted,

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By:



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cc: All Counsel of Record (By ECF)